

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP.NPD.No.4210 of 2010

The Coimbatore City Municipal Corporation,
Rep. by its Commissioner,
Having Office at Big Bazaar Street,
Coimbatore-01.

..Petitioners

Vs.

M/s.Rathna Resorts Ltd.,
Rep.by its Director,
G.T.Gopal,
No.708, Avinasi Road,
Coimbatore-18.

..Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 16.04.2009 in I.A.No.2159 of 2005 in CMA (CFR) No.22524 of 2005 on the file of the Principal District Judge, Coimbatore in dismissing the application to condone the delay in filing appeal against the order made by the Taxation Appellate Tribunal, Coimbatore in TAT No.17 of 2003.

For Petitioner : Mr.R.Sivakumar

For Respondent : Mr.K.Shakespeare

ORDER

This Civil Revision Petition is filed against the order passed in I.A.No.2159 of 2005 in CMA (CFR) No.22524 of 2005 by the learned Principal District Judge, Coimbatore in dismissing the

application to condone the delay in filing appeal against the order passed by the Taxation Appellate Tribunal, Coimbatore in TAT No.17 of 2003.

2. The learned counsel for the petitioner submitted that the officials of the petitioner/Corporation are fully engaged in the election, enumeration work and also due to administrative reasons, caused delay in filing the appeal. He further submitted that the Learned Principal District Judge, Coimbatore has dismissed the application for condoning the delay of 350 days in filing CMA, without assigning any proper reasons.

3.The learned counsel for respondent refuted the said reasons to condone the delay stating that there is a delay of nearly one year in filing the CMA. No proper reasons have been explained in the affidavit filed in support of the petition by the revision petitioner/Corporation. Therefore, the application filed by the Petitioner/Corporation is liable to be set aside. Learned counsel for the respondent further submitted seeking that CRP(NPD).No.564 of 2009 was filed by the respondent for a direction to dispose of the I.A.No.2159 of 2005 in CMA.Unnumbered/2005 pending on the file of the learned Principal District Judge, Coimbatore.

4. The learned counsel for the respondent opposes for allowing the CRP, mainly on the ground that the reason mentioned for condonation of delay is insufficient. However, agreed to condone the delay, on imposition of heavy costs, on the Corporation for not explaining the reasons in the affidavit.

5. Heard, R.Sivakumar, learned counsel for the petitioner and Mr.Shakespeare, learned counsel for the respondent.

6. The issues involved in the appeal is regarding collection of property tax against the respondent herein. Therefore, the petitioner/Corporation will be put into irreparable loss and hardships. Hence, an opportunity shall be given to the Corporation to adjudicate the matter on merits, before the Principal District Court, Coimbatore.

7. To meet the ends of justice, I am of the view that the CRP is allowed on condition that the revision petitioner pay a sum of Rs.5000/-(Rupees Five Thousand only) to the learned counsel for the respondent, within a period of one week from today. On payment of such amount, the CRP application is allowed and the Principal District Court, Coimbatore, is directed to condone the

delay of 350 days in filing the appeal and number the appeal.

8. The learned counsel for the respondent submitted that the said application shall be allowed, without prejudice to his rights to raise all the contentions, before the tribunal .

9. Considering the said statement of the learned counsel for the respondent, liberty is given to the respondent to raise all his contentions including maintainability of the appeal, before the tribunal.

10. In the light of the above, the Civil Revision Petition is allowed, on condition of payment of Rs.5000/-(Rupees Five Thousand only) to the learned counsel for the respondent, within one week from today and the dismissal order passed by the learned Principal District Judge, Coimbatore in I.A.No.2159 of 2005 is set aside. However, it is made clear that non-compliance of the above said order, will result in dismissal of the Civil Revision Petition, automatically.

Post for reporting compliance on 29.04.2016

21.04.2016

gv

Note: Issue order copy on 25.04.2016

To

1. The Principal District Court, Coimbatore.

D.KRISHNAKUMAR,J.

gv

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